

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff

vs.

CRIMINAL 03-0093 (JAG)

[10] EDGARDO GUZMÁN BAQUERO

Defendant

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter is before the court on motion to appoint substitute counsel and motion to withdraw counsel filed by attorney Víctor P. Miranda Corrada, the defendant's third attorney in this case, on September 13, 2005. (Docket No. 323.) Attorney Miranda was appointed to represent the defendant on August 25, 2005. The first motion to withdraw was held in abeyance. Attorney Miranda filed another motion to withdraw on October 18, 2005, (Docket No. 329), repeating his first motion to withdraw. The defendant also wrote a letter complaining about his attorney. (Docket No. 333).

The matter was referred to me for hearing and such a hearing was held today. The defendant emphasized that he has witnesses whom he wishes to testify and wishes an investigator to interview certain witnesses in order to prepare for trial. He stated that he is dissatisfied with his representation and detailed the reasons. (See attachment to minutes of court proceedings, a two-page letter by the defendant addressed to the court; the defendant was not allowed to read the statement but the same was read by myself during the hearing.) Defense counsel stated that there are irreconcilable differences between himself and the defendant to the point where they cannot communicate with each other. After a detailed exchange between myself and

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the defendant covering such subjects as trial strategy, trial date, investigation, outcome expectations, quality of witnesses and choice and number of counsel, I am recommending that the court appoint another attorney to represent the defendant Edgardo Guzmán Baquero.

In view of the above, I recommend that the motions to withdraw representation (Docket Nos. 323, 329) be granted and that substitute counsel be appointed pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A(b).

Under the provisions of Rule 72(d), Local Rules, District of Puerto Rico, any party who objects to this report and recommendation must file a written objection thereto with the Clerk of this Court within five (5) days of the party's receipt of this report and recommendation. The written objections must specifically identify the portion of the recommendation, or report to which objection is made and the basis for such objections. Failure to comply with this rule precludes further appellate review. See Thomas v. Arn, 474 U.S. 140, 155 (1985), reh'g denied, 474 U.S. 1111 (1986); Davet v. Maccorone, 973 F.2d 22, 30-31 (1<sup>st</sup> Cir. 1992); Paterson-Leitch Co. v. Massachusetts Mun. Wholesale Elec. Co., 840 F.2d 985 (1<sup>st</sup> Cir. 1988); Borden v. Secretary of Health & Human Servs., 836 F.2d 4, 6 (1<sup>st</sup> Cir. 1987); Scott v. Schweiker, 702 F.2d 13, 14 (1<sup>st</sup> Cir. 1983); United States v. Vega, 678 F.2d 376, 378-79 (1<sup>st</sup> Cir. 1982); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603 (1<sup>st</sup> Cir. 1980).

At San Juan, Puerto Rico, this 14<sup>th</sup> day of November, 2005.

S/ JUSTO ARENAS  
Chief United States Magistrate Judge